

**ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD
AMENDED MINUTES OF MEETING
March 15, 2006
PHOENIX, ARIZONA**

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on March 15, 2006, at AZ POST, located at 2643 E. University Drive, Phoenix, AZ.

Members Present:

Sheriff Gary Butler, Chairman
Deputy Director Gary Phelps, representing Director Dora Schriro
Detective Robert Thompson
Chief Patricia Huntsman
Chief Jerry Sheridan
Director Roger Vanderpool
Chief Jack Harris
Mr. Tim Black, representing Attorney General Terry Goddard
Sgt. Tamatha Villar

Members Absent:

Sheriff Clarence Dupnik
Mr. Joseph Duarte
Dr. Michael Polakowski

Staff in Attendance:

Bob Forry
Ted Brandon
Steve Jacobs
Lynn Larson
Curt Milam
Gary Maschner
Mark Yoshimura
Rosalee Fitch
Ed Felix
Marie Dryer
Donna Freed
Maria Valtierra
Mark Zbojniewicz
Sandy Sierra
Tom Hammarstrom

Assistant Attorney General
Diana Stabler

Guest Roster:

Lt. Dean Nyhart, ALEA/DPS
Ed Cibbarelli, CARLOTA
Steve Hylen, COTA
Lt. Mike Mitchell, MCSO Academy
Neil Landeen
Robert Gates
Donna Mitchell
Victoria Mangiapane
Janet Phelps

A. CALL TO ORDER

Chairman Gary Butler convened the meeting at 10:06 a.m.

B. INTRODUCTIONS AND RECOGNITIONS

Director Tom Hammarstrom introduced Victoria Mangiapane of the Solicitor General's Office. Ms. Mangiapane is here to assist the Board with any legal questions that may arise.

Director Tom Hammarstrom introduced new staff member Sandy Sierra. Sandy was selected to fill the ASO position vacated by Lois Sherlock.

C. CONSENT AGENDA

Approved unanimously, motion made by Sgt. Villar, seconded by Detective Thompson.

1. Minutes of the Regular Board meeting, held on January 18, 2006, were approved as written.
2. Minutes of the Charging Board meeting, held on February 15, 2006, were approved as written.
3. The next scheduled Regular Board meeting is Wednesday, May 17, 2006, 10 a.m. at AZ POST, located at 2643 E. University Drive, Phoenix, AZ.

4. Ministerial Actions:

- a. Certification Waivers: The following individual(s) have met the requirements set forth in AZ POST Rule R13-4-110 and have successfully completed the testing process and verification by AZ POST staff. Therefore, upon Board direction, certified peace officer status has been granted to:

Kristina M. Azocar	Glendale Police Department
James Dougal	Goodyear Police Department
Sherwood S. Eldridge	Pinetop-Lakeside Police Department
Samuel E. Johnson	Colorado City Marshal's Office
Ardell J. Judd	AZ Department of Transportation/MVD
Steven R. Kelly	Santa Cruz County Sheriff's Office
James F. Krauger	Santa Cruz County Sheriff's Office
Darryl L. Rivers	AZ Department of Corrections
Danielle Suarez	AZ Department of Corrections
John Talley	Phoenix Police Department
Gregory A. Thomsen	Peoria Police Department

- b. Instructor Certification Renewals: LIST ATTACHED TO MINUTES.
- c. Training Program Confirmations: Agency requests were reviewed by staff and found to comply with Board guidelines. Programs were confirmed as requested. LIST ATTACHED TO MINUTES.

5. Decertification Case Status Report Update – As of February 28, 2006, the Compliance and Standards Unit had a caseload of 161 active cases. 9 cases are ready for initial presentation; 48 cases need further investigation; 19 cases are pending service of or response to a Notice of Complaint or Decision; 9 cases are pending hearing; 15 cases are ready for final action, and 61 cases are waiting for outside action, i.e., a criminal trial or civil service hearing.

6. Income and Expense Statement – January 2006

Funds as of January 1, 2006	\$ 1,872,440.63
CJEF Revenue	469,913.71
Expenditures/Encumbrances	(396,110.55)
Balance for January 31, 2006	\$ 1,946,243.79

D. REGULAR AGENDA

1. Chandler-Gilbert Community College Law Enforcement Academy. R13-4-116.H requires an on-site inspection by Board staff before an academy provides training to persons seeking certification for any

category of peace officer. This inspection also determines compliance with R13-4-114.

AZ POST staff has determined that the Chandler-Gilbert Community College Law Enforcement Academy has met all the requirements of R13-4-114 and R13-4-116.H.

Chief Sheridan made a motion to determine that the Chandler-Gilbert Community College Law Enforcement Academy meets the standards of R13-4-116.H and the academy may provide the basic training required to receive certified peace officer status. The motion was seconded by Sgt. Villar and carried unanimously.

E. LEGISLATIVE UPDATE

Mr. Phelps provided an update on HP 2973 which is a bill that will include “personnel who are employed by the state department of corrections and who have received a certificate from the Arizona peace officer standards and training board” to the peace officer definition. If the bill passes it will recognize the 74 certified correctional officers working for DOC as fully certified peace officers.

A second bill is requesting an allocation for funding for fiscal plan improvements or capital improvements at Central Arizona College to provide support Central Arizona Regional Law Enforcement Training Academy (CARLOTA).

F. SUMMARY OF CURRENT EVENTS

No report.

G. COMMITTEE UPDATE

No report.

H. REPORTS

1. Basic Training

ALEA – Commander Dean Nyhart reported that ALEA currently has 190 recruits on campus. One class will graduate next week and another class will start the week after. There will be six classes in June representing 16 agencies. Last July at the Flagstaff meeting, a way to reduce the attrition rate was discussed. End of 2005 data analysis showed that this program has been successful. Without lowering standards and by implementing procedural and operational changes, the attrition rate was reduced from 32.4% to 18.2%. Most every agency saw a reduction. Challenges for 2006

will be to increase the number of permanent staff and to obtain greater participation in defensive tactics training. This is a 64-hour block of training and it is very difficult for agencies to commit an instructor for that amount of time.

CARLOTA – Ed Cibbarelli represented Director Weiss and reported that Director Weiss has accepted another position and will be leaving CARLOTA. Currently they have two classes in session with 60+ cadets in the two classes. Pinal County has provided a sergeant to assist and he is doing a great job. He will be on board until the end of May when the two classes graduate.

COTA – Associate Deputy Warden Steve Hylen represented Commander Branch, who is on vacation. Warden Hylen reported that COTA graduated 123 out of 155 cadets since January, 17, 2006, 25 resigned, 7 dismissed and 115 are presently attending. COTA continues to offer its facilities to other agencies. A Certified Public Manager's course was offered in January and February of this year. Besides state employees, other agencies attended the CPM course. COTA is offering a Spanish Emersion course. There is also a Canine Academy being offered.

MCSO Academy – Lt. Mike Mitchell reported that so far in 2006 they have graduated 51 recruits. They estimate by the end of 2006 they will have graduated 100 recruits totaling four classes. Currently they are running one class with 26 recruits. Last year they made commitment to offer academy to other agencies, this is currently being done. The MCSO Academy runs for 20 weeks.

3. Department of Corrections – Mr. Phelps reported that the Department is asking the legislature for a pay raise for its officers in order to make them more competitive with other agencies. Currently there is a 21% vacancy rate in DOC.
 4. Arizona Regional Community Policing Institute – Sgt. Mark Yoshimura represented Rod Covey and reported they continue to do well with training offerings and technical assistance through town hall meetings. FBI trainers? Have not heard much of anything from the FBI as far as a time table. Ready for them.
- I. FINAL ACTION CASES: Consideration and possible action on the certified status of peace officers.

Case #1 – Rigoberto Gonzalez. The Board Considered comments from Assistant Attorney General Diana Stabler. Chief Sheridan made a motion to adopt the Consent Agreement, Order and Decision for a 6-month

suspension from September 13, 2005, until March 13, 2006, seconded by Sgt. Villar, motion carried unanimously.

Case #2 – Wendell Hunt – The Board considered comments from Assistant A. G. Diana Stabler. Chief Harris made a motion to adopt the Consent Agreement, Order and Decision for a 12-month suspension from December 30, 2004, until December 30, 2005, seconded by Chief Huntsman, motion carried unanimously.

Case #3 – Wesley Biggs – The Board considered comments from Assistant A. G. Diana Stabler. Mr. Black made a motion to adopt the Findings of Fact and Conclusions of Law to suspend peace officer certification for one year, beginning March 15, 2006, seconded by Chief Sheridan, motion carried with one nay vote.

Case #4 – Robert Gates – The Board considered comments from Neil Landeen, attorney representing Robert Gates, and Assistant A. G. Diana Stabler. Mr. Black made a motion to adopt the Findings of Fact and Conclusions of Law and suspend peace officer certification for two years beginning March 15, 2006, seconded by Chief Sheridan, Motion defeated by a 3-5 vote. Chief Harris made a motion to revoke certification; motion dies due to lack of a second. Director Vanderpool made a motion to suspend certification for one year, beginning March 15, 2006, seconded by Chief Huntsman, motion carried with one nay vote.

Case #5 – Robert Purdy – The Board considered comments from Neil Landeen, attorney representing Robert Purdy, and Assistant A. G. Diana Stabler. Chief Huntsman made a motion to adopt the Findings of Fact and Conclusions of Law and suspend peace officer certification for one year, beginning March 15, 2006, seconded by Mr. Black, motion carried by a 4-5 vote.

Case #6 – Edgil Hector – *Director Vanderpool recused himself from participation and voting on this case.* Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law and deny peace officer certification, seconded by Chief Huntsman, motion carried with one nay vote.

Case #7 – Roy McCabe – *Director Vanderpool recused himself from participation and voting on this case.* Sgt. Villar made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Chief Harris, motion carried unanimously.

Case #8 – Patricia M. McCormack – At the request of Ms. McCormack's attorney, this case was continued until the next meeting.

Case #9 – Timothy J. Schimikowsky – The Board considered comments from Assistant A. G. Diana Stabler. Chief Harris made a motion to adopt the Findings of Fact and Conclusions of Law and suspend peace officer certification for six months beginning September 4, 2004, seconded by Mr. Black, motion carried with one nay vote.

Case #10 – Karla H. Arellano – *Detective Thompson recused himself from participation and voting on this case.* The Board considered comments from Donna McDaniel, Ms. Arellano's attorney, and Assistant A. G. Diana Stabler. Director Vanderpool made a motion to adopt the Administrative Law Judge's Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Sgt. Villar, motion carried unanimously.

Case #11 – Bernadette Koren – *Director Vanderpool recused himself from participation and voting on this case. Mr. Phelps recused himself from participation and voting on this case.* The Board considered comments from Janet Phelps, attorney for Ms. Koren, and Assistant A. G. Diana Stabler. Chief Sheridan made a motion to adopt the Administrative Law Judge's Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Chairman Butler, motion carried by a 4-2 vote.

*** Minutes amended on July 12, 2006, to show the motion carried by a 4-3 vote. See minutes of June 21, 2006, meeting.**

Case #12 – Thomas S. Murtha – The Board considered comments from Assistant A. G. Diana Stabler. Chief Sheridan made a motion to adopt the Administrative Law Judge's Findings of Fact and Conclusions of Law and dismiss the Complaint, seconded by Sgt. Villar, motion carried unanimously.

Case #13 – Vincent Tracey – The Board considered comments from Neil Landeen, attorney for Mr. Tracey, and Assistant A.G. Diana Stabler. Chief Sheridan made a motion to adopt the Administrative Law Judge's Findings of Fact and Conclusions of Law with the modifications as recommended by the state and adopt the state's analysis, seconded by Chief Harris, motion carried unanimously. As far as sanctioning, Mr. Black moved to revoke peace officer certification, seconded by Sgt. Villar, motion carried unanimously.

J. CHARGING CASES: Consideration of Complaints against peace officer certification based upon reports of misconduct.

Case #1 – Frank S. DiStefano. *Chief Harris recused himself from participation and voting on this case.* Mr. Black made a motion to initiate proceedings, seconded by Director Vanderpool, motion carried unanimously.

Case #2 – Richard M. Dushion II. Chief Huntsman made a motion to initiate proceedings, seconded by Sgt. Villar, motion carried 4-3. Mr. Hammarstrom inquired if the Board would like staff to pursue a consent agreement. The Board stated they would like staff to do this.

Case #3 – David R. Fowler. Chief Huntsman made a motion to close the case with No Action, seconded by Chief Harris, motion carried unanimously.

Case #4 – Chad M. Goulding. *Chief Harris recused himself from participation and voting on this case.* Mr. Black made a motion to initiate proceedings, seconded by Sgt. Villar, motion carried unanimously.

Case #5 – Aaron R. Hopkins. Director Vanderpool made a motion to initiate proceedings, seconded by Mr. Phelps, motion carried unanimously.

Case #6 – Jay H. Patterson. *Chief Harris recused himself from participation and voting on this case.* Director Vanderpool made a motion to initiate proceedings, seconded by Chief Huntsman, motion carried unanimously.

Case #7 – Mario Reyes. Sgt. Villar made a motion to initiate proceedings, seconded by Mr. Black, motion carried 8-1.

Case #8 – Mervin F. Wadsworth. Director Vanderpool made a motion to close the case with No Action, seconded by Chief Sheridan, motion carried unanimously.

Case #9 – Linda D. Williams. Chief Sheridan made a motion to close the case with No Action with Agency Discretion, seconded by Sgt. Villar, motion carried unanimously.

K. CALL TO THE PUBLIC

Mr. Mike Palmer addressed the Board with a citizen's complaint against a Mesa police officer. He presented documentation to staff regarding this complaint. The Board listened to Mr. Palmer's complaint but made no decision.

L. ADJOURN

Chairman Butler adjourned the meeting at 12:05 p.m.

Amended Minutes

Dated: June 27, 2006

Sandra L. Sierra, Recording Secretary

Minutes approved as written.

Gary Butler, Chairman